

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

GRISSELLE RAMOS, on behalf of herself and )	)	
all others similarly situated )	)	
	)	<b>Civil Action No. 08cv2703</b>
Plaintiff, )	)	
	)	
v. )	)	Judge Lefkow
	)	
PLAYTEX PRODUCTS, INC., RC2 )	)	Magistrate Judge Schenkier
CORPORATION, LEARNING CURVE )	)	
BRANDS, INC., and MEDELA, INC. )	)	<b>ORAL ARGUMENT REQUESTED</b>
	)	
Defendants. )	)	
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	)	
DINA SCALIA, JENNIFER SUAREZ, and )	)	
MARISSA LOPEZ, on behalf of themselves )	)	<b>Case No. 08cv2828</b>
and all others similarly situated )	)	
	)	
Plaintiffs, )	)	Judge Lefkow
	)	
v. )	)	Magistrate Judge Schenkier
	)	
PLAYTEX PRODUCTS, INC., RC2 )	)	<b>ORAL ARGUMENT REQUESTED</b>
CORPORATION, LEARNING CURVE )	)	
BRANDS, INC., and MEDELA, INC., )	)	
	)	
Defendants. )	)	

**DEFENDANT MEDELA INC.'S MOTION  
FOR ENTRY OF A CASE MANAGEMENT ORDER PURSUANT TO RULE 16(c)(12)**

Pursuant to Federal Rules of Civil Procedure 16, defendant Medela Inc. (“Medela”), by its undersigned attorneys, respectfully moves this Court for entry of a case management order requiring Plaintiffs to present, prior to the exchange of initial disclosures and any other discovery, the factual information that constitutes the basis for their allegations and claims of lead exposure, including the following information: (1) the specific Medela product(s)

at issue in this case; (2) evidence of actual exposure to lead (*i.e.*, human contact with lead in the product); and (3) the nature and extent of such exposure to lead. In support thereof, Medela states as follows:

1. Rule 16 provides federal courts with substantial authority to fashion an efficient and cost-effective approach to managing and disposing of litigation. Rule 16(c)(12) authorizes the Court to take appropriate action with respect to:

... the need for adopting special procedures for managing potentially difficult or protracted actions that may involve complex issues, multiple parties, difficult legal questions or unusual proof problems.

Fed. R. Civ. P. 16(c)(12).

2. Federal and state courts often have employed this Rule to require plaintiffs to come forward with basic facts to support their allegations before the case proceeds with discovery. Such orders commonly are referred to as “*Lone Pine*” orders.<sup>1</sup>

3. Consistent with the purposes of Rule 16, *Lone Pine* orders are tailored to fit the circumstances of each case. In many instances, a *Lone Pine* order has directed the plaintiffs to provide expert affidavits detailing key elements of the plaintiffs’ case, such as the existence, extent, and manner of the alleged exposure to a chemical substance, and the alleged causal connection between that exposure and the asserted injuries.

4. These class actions, premised entirely on allegations of exposure to lead, present many of the same issues that courts have sought to address through the use of *Lone Pine* orders.

5. Plaintiffs allege that their children have been exposed to lead, but the complaint offers no clue as to the particular products at issue; as to the nature, extent, or manner of

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<sup>1</sup> These orders are named after an opinion from the Superior Court of New Jersey, *Lore v. Lone Pine Corp.*, 1986 N.J. Super. LEXIS 1626 (N.J. Super. Law. Div. November 18, 1986).

exposure; or as to the causal connection between the exposure and the claimed injuries. These are key foundational facts that Plaintiffs should present at the earliest possible stage of the litigation, through entry of an appropriate case management order.

6. Plaintiffs were legally obligated, pursuant to Rule 11, to make a reasonable inquiry and possess a factual basis for their claims *prior* to filing their complaints. *See* Fed. R. Civ. P. 11(b)(3). Thus, Plaintiffs must have *some* information regarding their exposure allegations, the circumstances under which they could have been exposed to lead, and the basis for believing that the defendants were responsible for their injuries.

7. Fairness requires that Plaintiffs present such information before imposing on Medela the costly discovery and litigation burdens of a putative nationwide class action.

8. Medela also is filing contemporaneously a brief in support of this motion.

WHEREFORE, for the reasons set forth herein and in the accompanying brief, Medela respectfully requests that this Court enter a case management order requiring Plaintiffs to present, prior to the exchange of initial disclosures and any other discovery, the factual information that constitutes the basis for their allegations and claims of lead exposure, including the following information: (1) the specific Medela product(s) at issue in this case; (2) evidence of actual exposure to lead (*i.e.*, human contact with lead in the product); and (3) the nature and extent of such exposure to lead. Medela also respectfully requests an opportunity to present oral argument in support of this motion.

Dated: June 23, 2008

Respectfully submitted,

MEDELA INC.

By: /s/ Susan M. Benton  
One of Its Attorneys

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*Attorneys for Defendant,  
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**CERTIFICATE OF SERVICE**

I hereby certify that on this 23<sup>rd</sup> day of June 2008, I caused a copy of the foregoing document, DEFENDANT MEDELA INC.'S MOTION FOR ENTRY OF A CASE MANAGEMENT ORDER PURSUANT TO RULE 16(c)(12), to be filed electronically. Notice of this filing will be sent to the following counsel by operation of the Court's ECF system. Parties may access this filing through the Court's system.

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